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LAND PROJECT: LEGAL RESEARCH CAPABILITIES ASSESSMENT

ASSESSMENT OF THE LEGAL RESEARCH CAPACITY OF DEFENSE LAWYERS AND
LEGAL AID PROVIDERS

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CONTACT INFORMATION:

Anna Knox
Chief of Party

LAND Project

Nyarutarama, Kigali

Tel: +250 786 689 685

aknox@land-project.org

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LAWYERS AND LEGAL AID PROVIDERS**

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LAND Project

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ACRONYMS

CSO's	Civil Society Organisations
ILPD	Institute of Legal Practice and Development
SD	Standard Deviation
TV	Television
USAID	United States Agency for International Development

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1.0 INTRODUCTION

Analysis of the legal framework governing land, reviews of legal cases, and research on the impacts of land policies can enhance the ability of legal aid providers and defense lawyers to respond to the needs of clients engaged in land disputes. In its annual work plan, LAND project worked with HAGURUKA to train legal aid providers and defense lawyers on the legal framework governing land with a focus on land rights of vulnerable groups, including women and children. As part of this training, LAND staff conducted an assessment of legal aid providers' capacity to use research findings to improve the quality of their services and advocacy efforts. LAND Project is committed to carrying out such an assessment in its Year 1 Work Plan, linking it to the course targeting legal aid providers.

The overall purpose of this assessment is to identify and document existing legal research capacities among legal aid providers and defense lawyers in terms of awareness and accessibility of research materials, skills to carry out legal research, use of research findings to formulate defense cases, and collaboration with researchers and experts in the legal domain. Information obtained from this assessment seeks to inform interventions by justice sector partners in building research capacity of legal aid providers and defense lawyers.

1.1 Assessment Approach

Data used for this assessment was collected during the Training on the Legal Framework Governing Land in Rwanda, and was held at Nobleza Hotel in Kigali, April 1-5, 2013. The course targeted legal aid providers and defense lawyers, who were trained on the land rights of women and vulnerable groups. The course consisted of an interactive moot court session, which enabled participants to exercise legal research skills to prepare case submissions and advocate simulated gender and land-related cases.

A scorecard was administered before the moot court exercise to all training course participants for them to self-assess their legal research capabilities (see Annex A). The scorecard consisted of three main components for evaluation: Awareness and Accessibility, Practice and Use, and Coordination and Collaboration. For each question under each of these sections, participants would rate their assessment on a scale of 1(low) to 5 (very high).

LAND Project staff explained the purpose of the scorecard and its administration modalities prior to the completion of the questionnaires by respondents. Concerns and questions raised by participants were all answered. Out of 36 trainees, 26 (72%) responded to questions provided in the scorecard.

In addition to the scorecard, this assessment is informed by observations by the LAND Project staff and course trainers while observing the moot court sessions and how participants employed legal research skills.

2.0 SYNTHESIS OF RESULTS

The synthesis of the results is presented according to the three main sections of the scorecard: Awareness of and accessibility to research products for preparing legal cases, practice and use of research products to build an effective case, and coordination and collaboration with researchers and other experts in the legal domain.

2.1 Awareness and Accessibility

The level of awareness and accessibility to research products was assessed using four questions. The first question assessed the extent to which respondent legal aid providers and defense lawyers cite or give reference to research materials in formulating or motivating the case.

The mean score for this question is 3.4 on a scale of 1 to 5 (see Figure 1), suggesting overall use of research materials by sampled legal aid providers to strengthen their cases is moderate. The standard deviation (SD) from the mean is likewise moderate. Figure 1 shows the degree to which individuals' responses deviated from the mean. The

fact that one does not observe considerable variance of the different responses from the mean lends greater credibility to the interpretation of the mean as representative of the extent to which respondents consult research material in formulating a legal case. Nevertheless, the fact that some respondents rated themselves as very high in this regard, while others assessed themselves as low may reflect the fact that the legal experience of participants varied widely, ranging from interns and legal aid providers to seasoned defense lawyers.

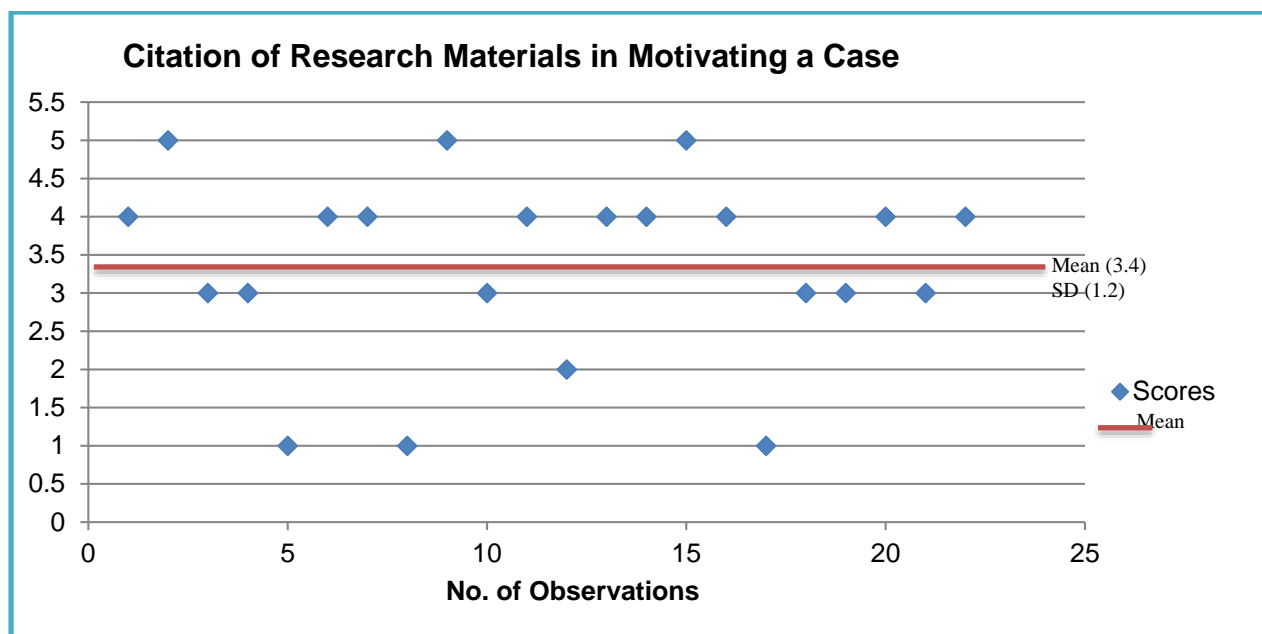


Figure 1: Legal Research Capacity: Citation of Research Materials, Illustration of Response Variations

The second question sought to understand the extent to which respondents accessed legal provisions (laws and other regulations) from different sources. Seven possible sources were given as indicated in Figure 2 below.

Results show that respondents tend to rely more on electronic sources (mostly internet) and the Courts, both of which had respective mean scores of 3.7 and 3.6. Low standard deviations of 1.0 and 1.1, respectively (see Figures 3), lend confidence to the interpretation that a reliance on these two sources for legal research is relatively good. Though mean scores corresponding to other sources of legal research (media, civil society organizations (CSOs), public libraries and research institutions) were somewhat

lower, in most cases the variance of responses was also slightly higher, making it more difficult to draw conclusions about their use.

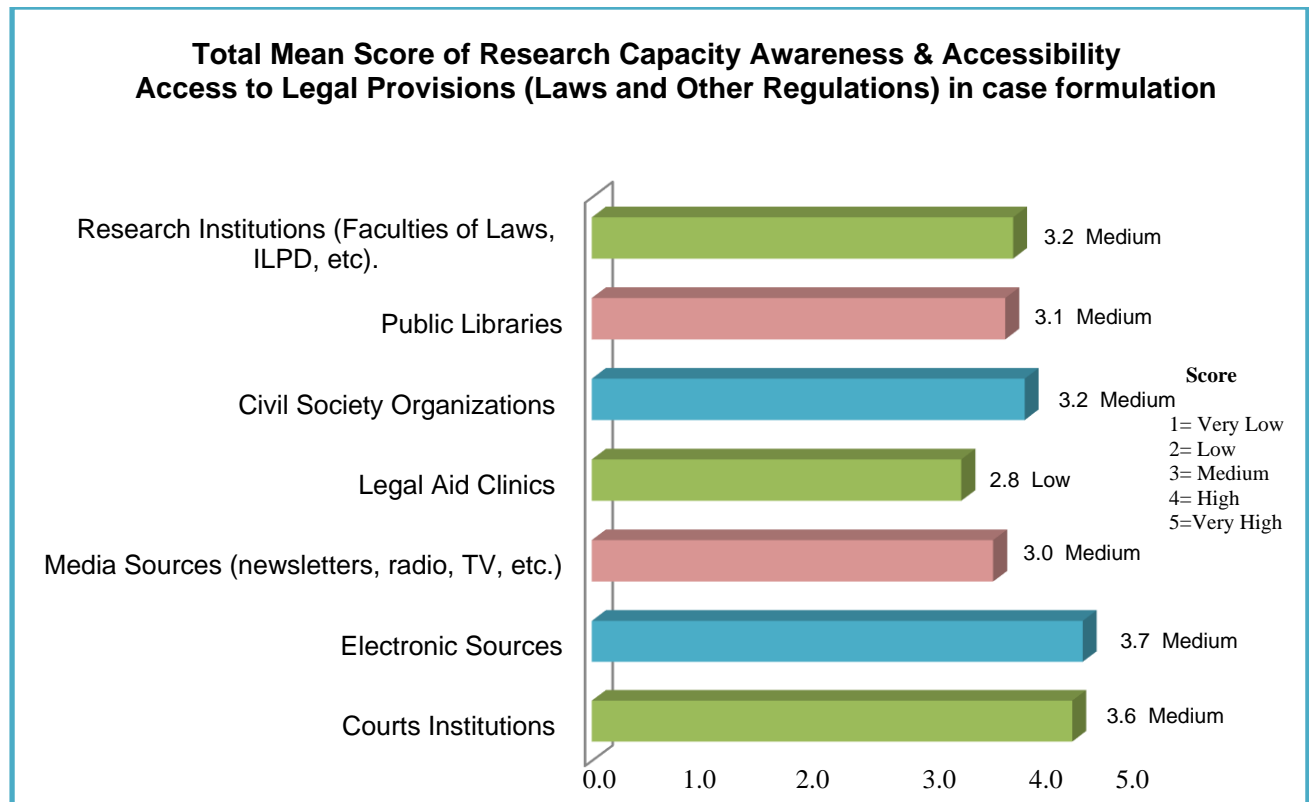


Figure 2: Legal Research Capacity: Access to Legal Provisions, Mean Scores

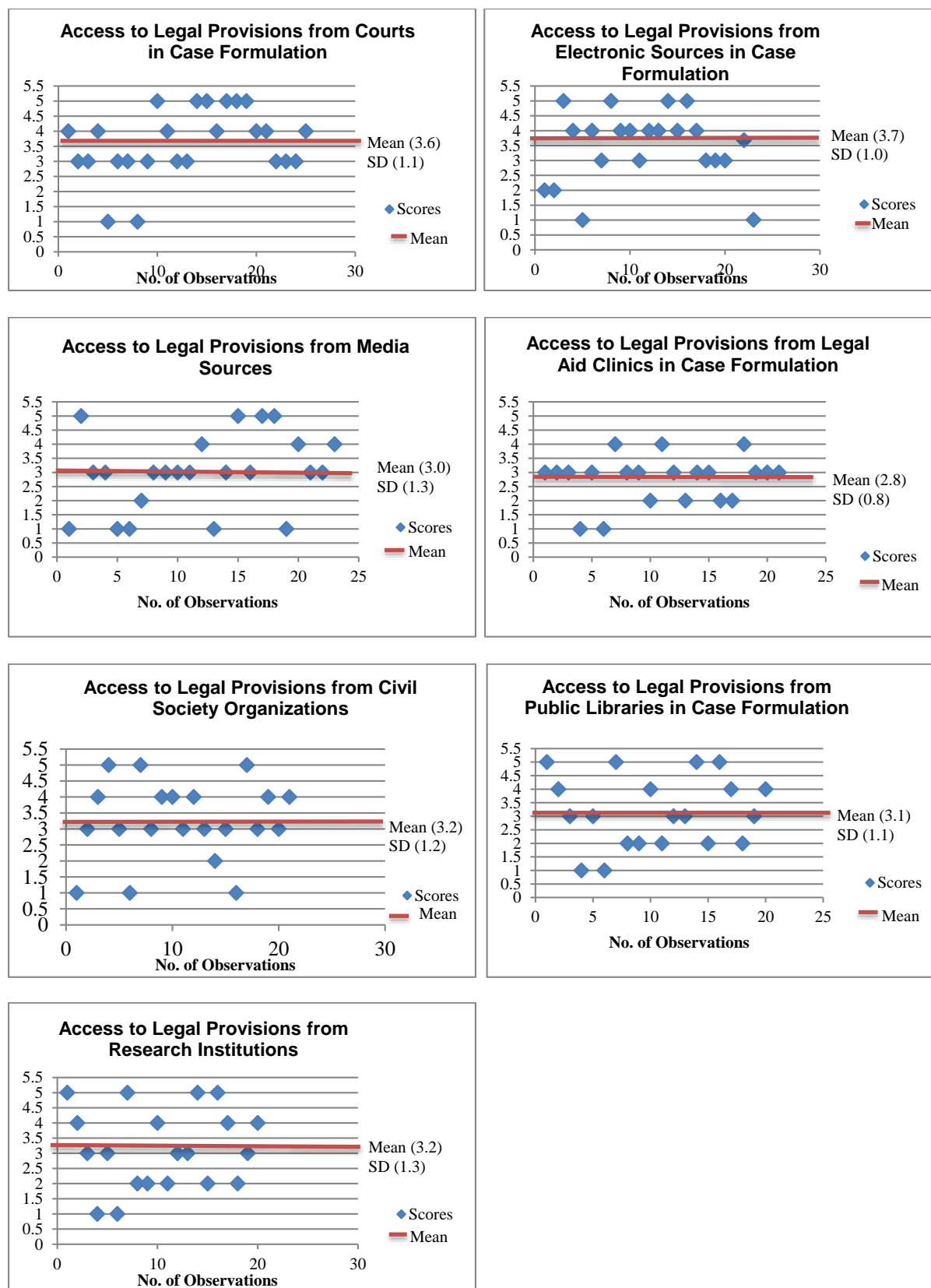


Figure 3: Legal Research Capacity: Access to Legal Provisions, Illustration of Response Variations

Apart from legal provisions, existing jurisprudence can be also used to understand and motivate the case by legal aid providers and defense lawyers. Respondent rankings for question 3 suggests that Courts remain the major source for accessing jurisprudence (a mean score 3.6) followed by electronic sources (See Figure 4). Standard deviations were moderate when it came to all sources, likely due to disparities in the legal experience among the respondents (See, Figure 5).

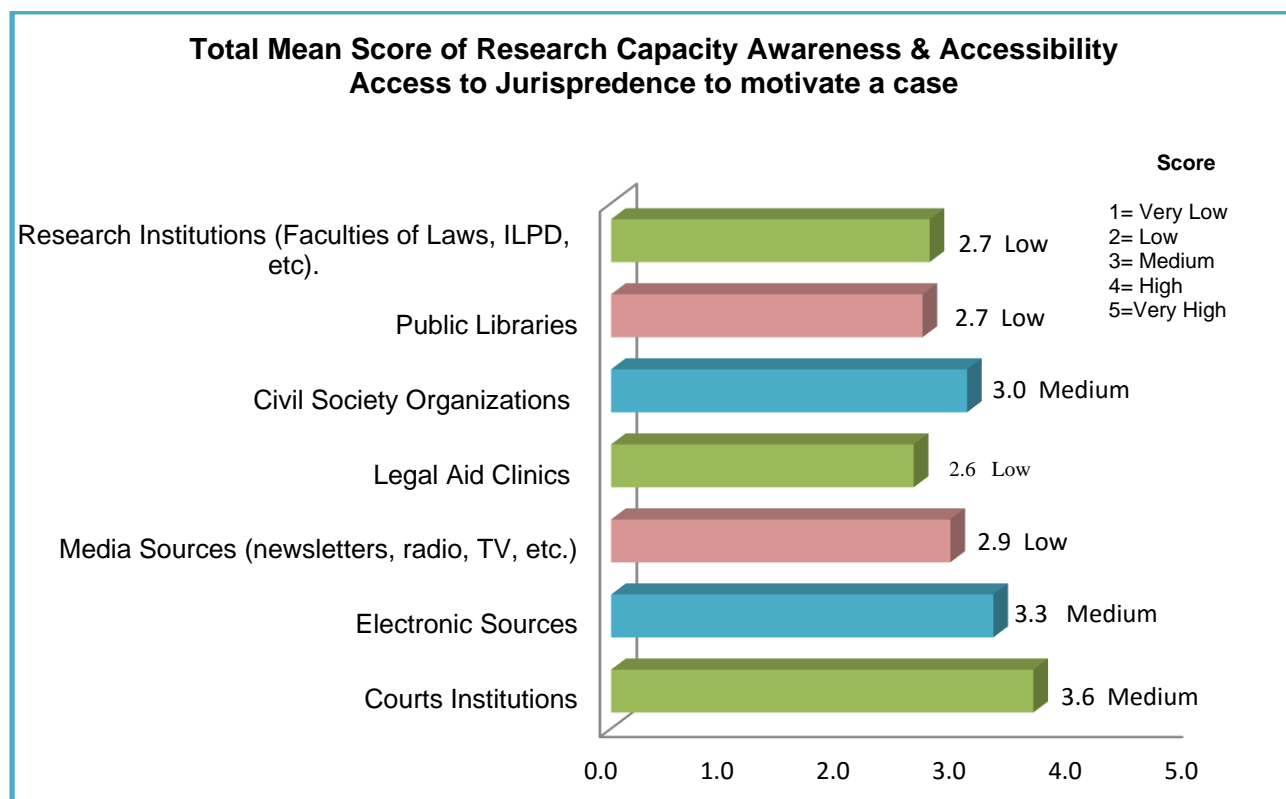


Figure 4: Legal Research Capacity: Access to Jurisprudence, Mean Score

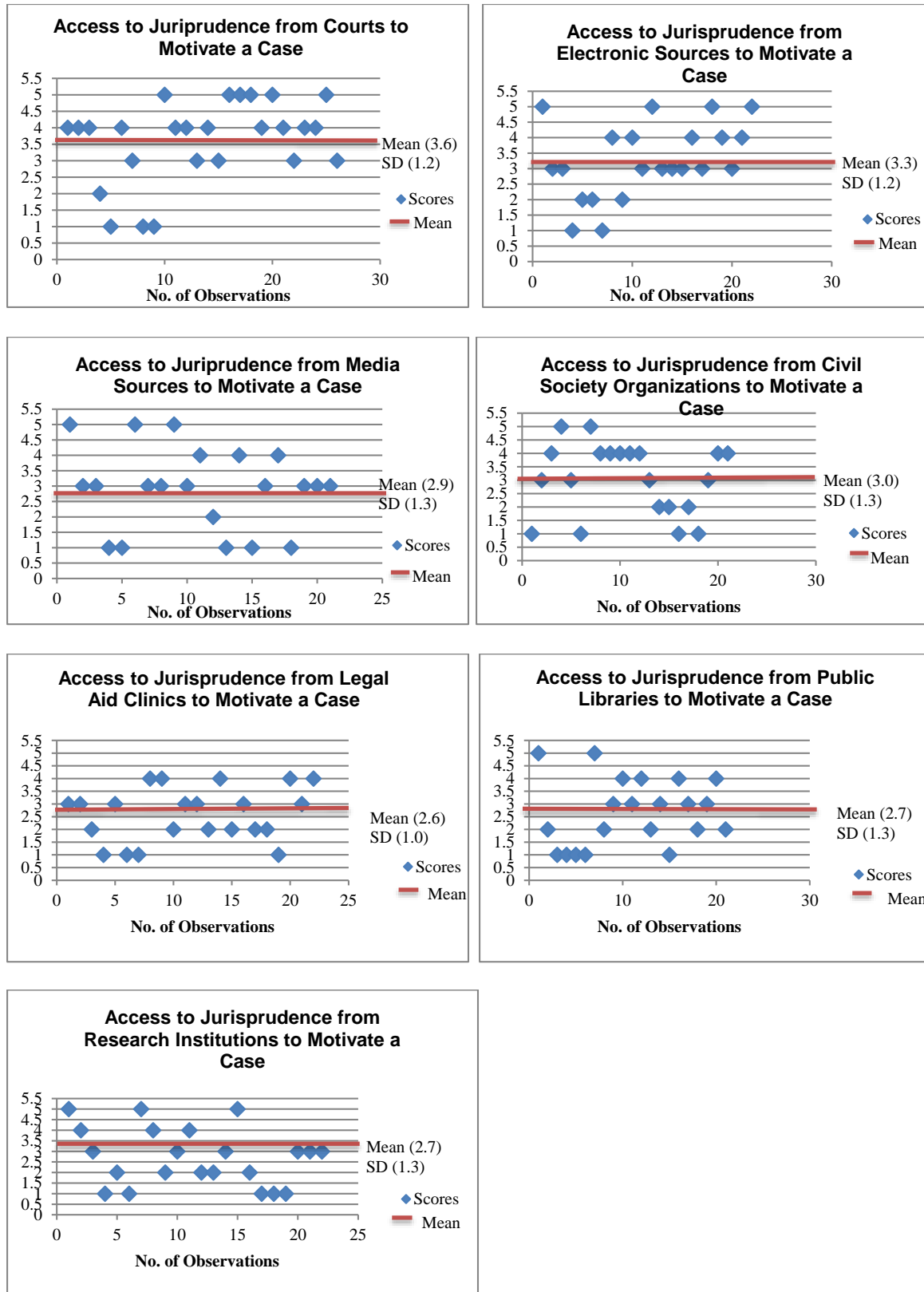


Figure 5: Legal Research Capacity: Access to Jurisprudence, Illustrations of Response Variations

Access to other research products (such as peer reviewed articles, published books, theses and dissertations) was also examined. A mean score of 4.0 suggests that most respondents access research products from electronic sources, such as internet (see Figure 6). Whereas the average degree of access to research products from CSOs and research institutions is rather low (mean 3.0 each), the variance of responses to these questions is also with standard deviations of 1.3 each (see Figure 7).

These results may reflect the fact that online research is typically the most expedient and accessible, whereas research conducted by CSOs is often limited or not widely available to those working outside those organizations. Also, many legal practitioners are not in the habit of consulting scholarly articles and papers from research institutions to motivate their cases. Therefore, this may lead to a lower and more diverse usage of these latter sources.

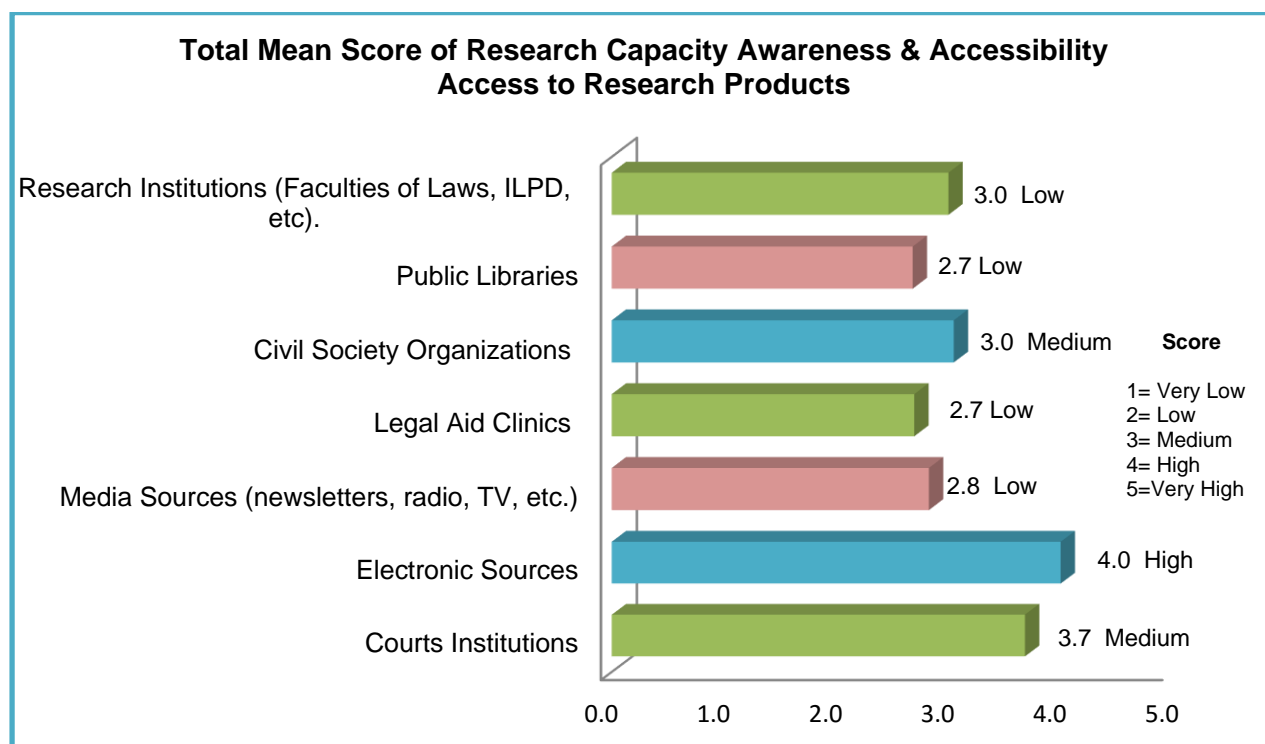


Figure 6: Legal Research Capacity: Access to Research Products, Mean Scores

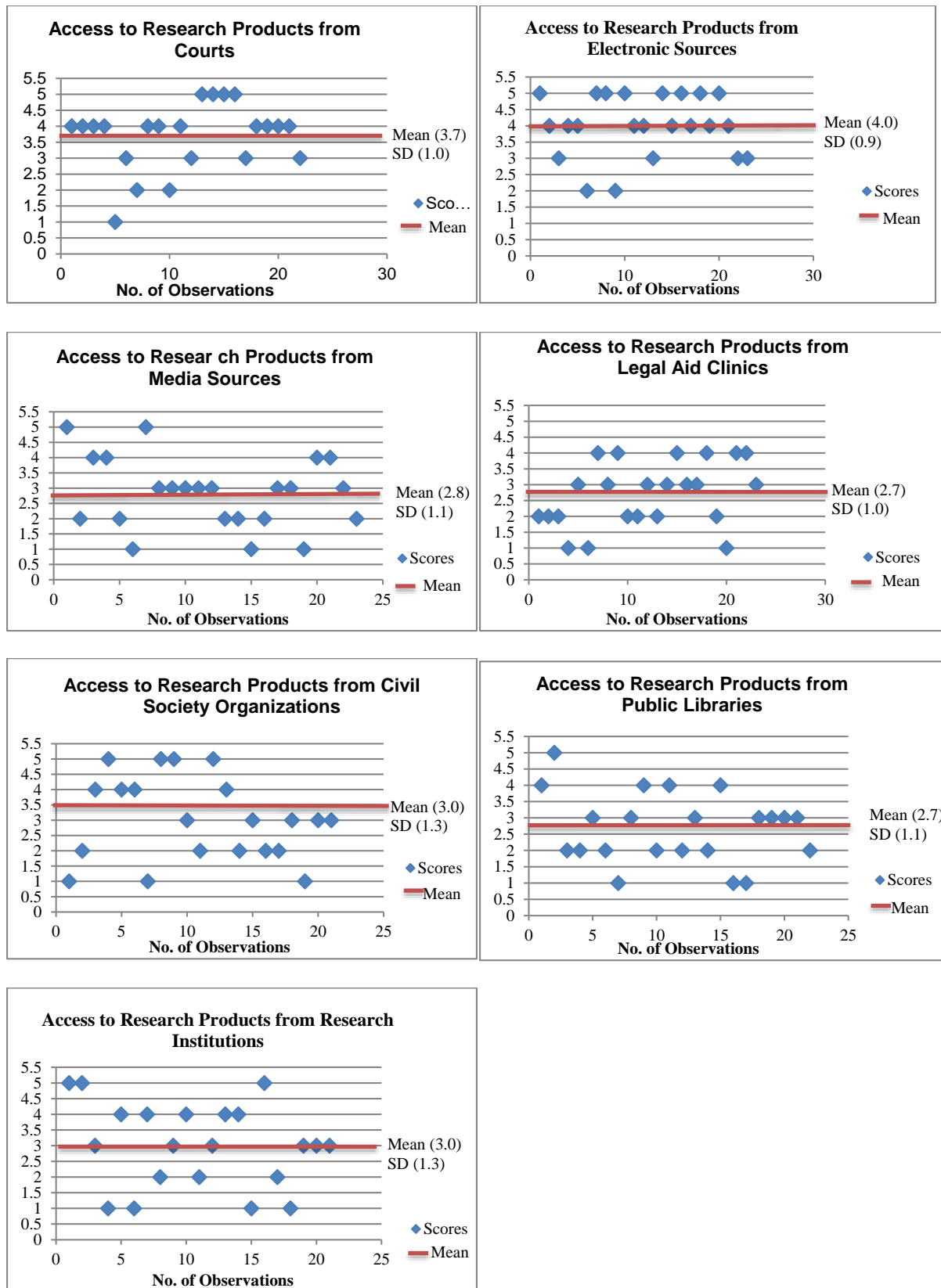


Figure 7: Legal Research Capacity: Access to Research Products, Illustrations of Response Variations

The mean scores presented in Figures 6 and 7 overall suggest that although legal aid providers and defense lawyers engage in research to prepare legal cases, many do very little or only a moderate amount of research and tend to rely primarily on electronic sources as well as the courts to obtain information.

Sound knowledge of provisions of relevant laws and regulations together with reference to how similar cases were handled in the past (jurisprudence) is fundamental to building a strong case. Likewise, consulting empirical research enables lawyers to gather evidence that can support their clients' cases. Hence, further capacity building is clearly needed to ensure legal practitioners are equipped with research skills to build solid cases for their clients.

2.2 Practice and use of Research Products

Five questions were asked to assess the practice and use of research products. The first question aimed at knowing the level of experience of legal aid provider and defense lawyer respondents in the domain of law. Experience in the field of law is seen to contribute to professional learning, including in the area of legal research. Experience was measured through the number of years in the field of law. The mean score of experience in the field of law is 6 years (with *Min*=2 and *Max*=16 years), with 90% of respondents having less than ten years of experience (See Figure 8). This is not unusual given that training programs such as the one held often attract those with less experience.

However, it also underscores the fact that the findings herein cannot claim to be representative of the population of legal aid providers and defense lawyers in Rwanda. Whereas less experienced legal practitioners may generally have weaker research skills than those with more experience, they may also need to rely on research more due to having less familiarity with the laws and case precedents.

The scorecard also asked whether participants had previously published a piece of research in the media, peer-reviewed journals, or books and found that 33% of a total of 18 respondents for this question confirmed they had. Though publishing is not a core

requirement in the legal practice, it can indicate superior research capabilities and a desire to share knowledge among legal practitioners.

Respondents' perceptions of the relevance of research in influencing formulation of new laws, regulations or amendments are moderate, receiving a mean score of 3.6 with a low standard deviation of 0.8. The consultation of legal research products to build a case and use of jurisprudence to motivate a case scored a mean of 3.6 and 3.0, respectively with a moderate standard deviation of 1.1 each (see Figure 9 and 10). The scores imply that whereas trainees engage in legal research and apply it to their cases; they do not do so extensively.

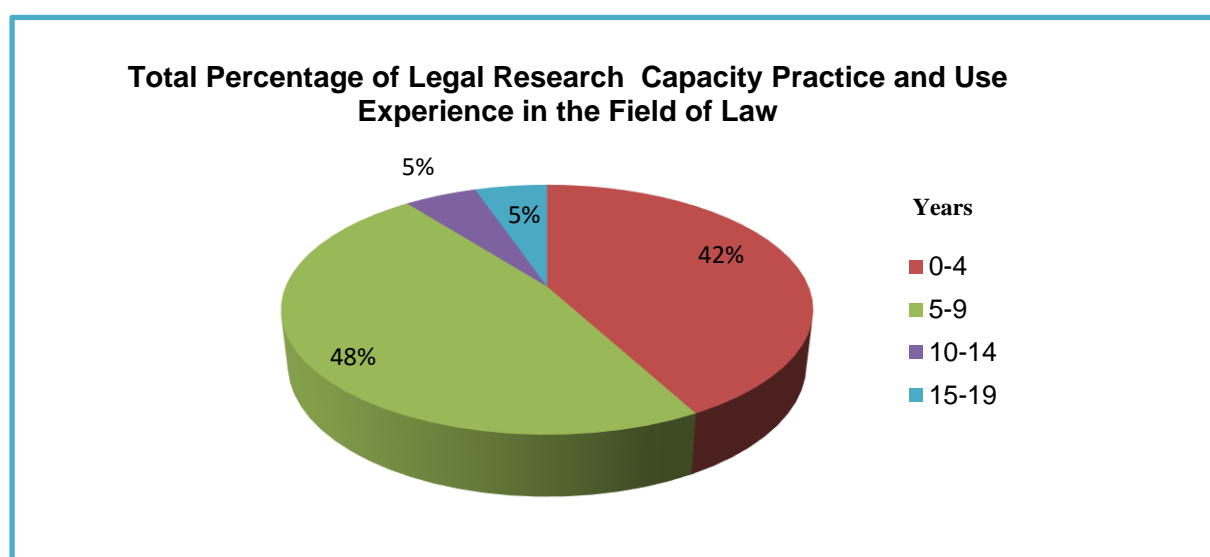


Figure 8: Legal Research Capacity: Experience in the Field of Law

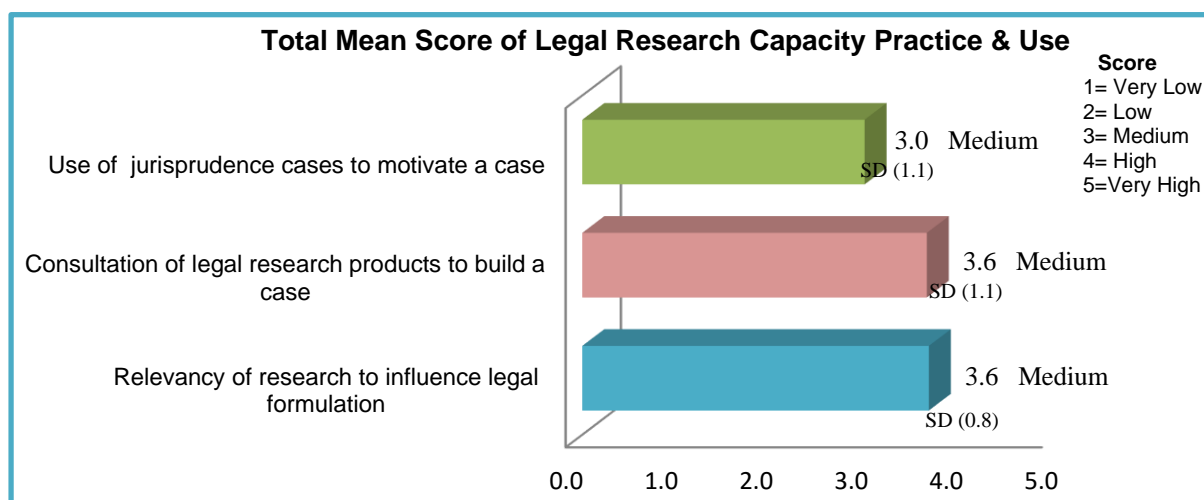


Figure 9: Legal Research Capacity: Practice and Use

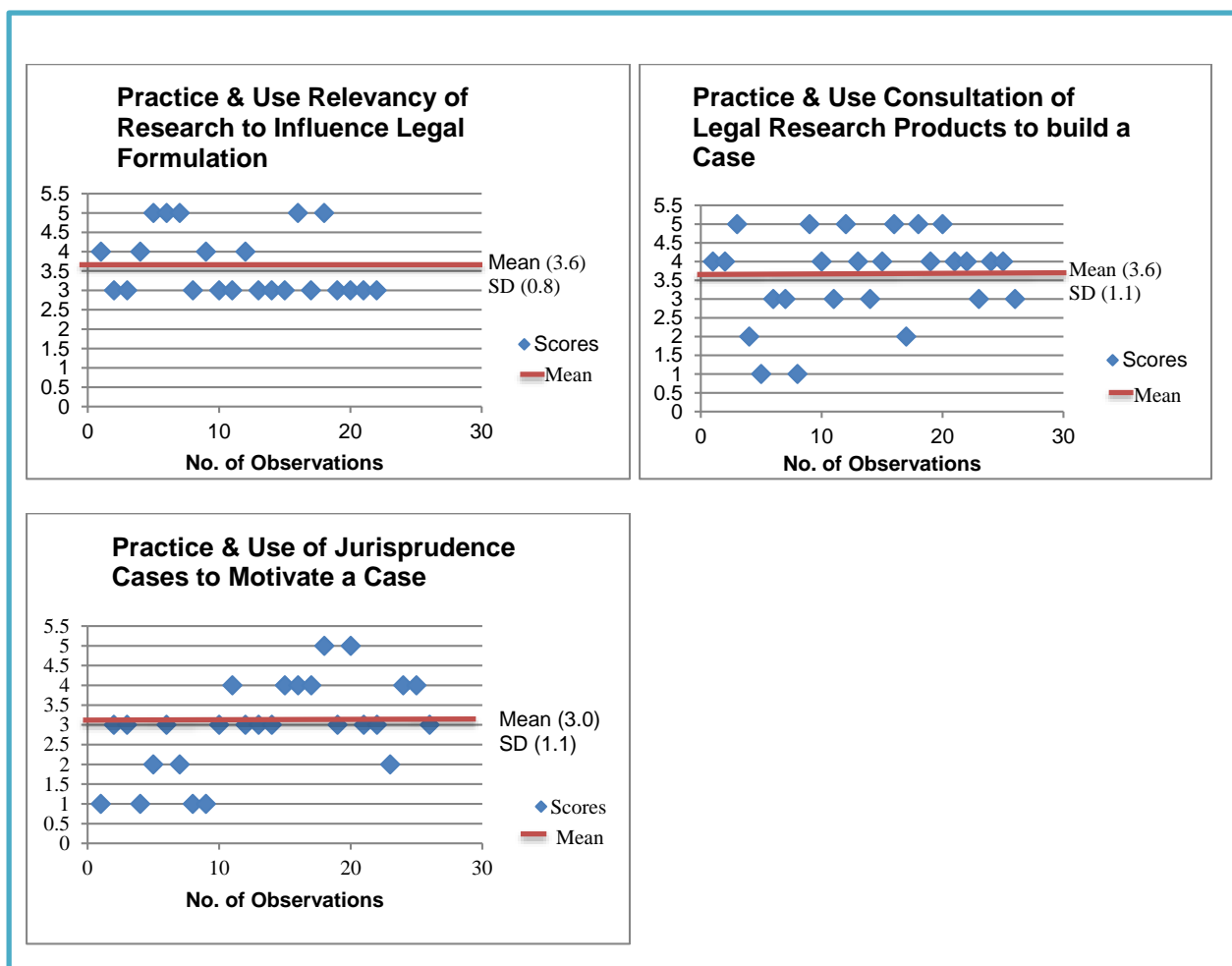


Figure 10: Legal Research Capacity: Practice and Use, Illustrations of Response Variations

The assessment findings reveal that the trained lawyers and legal aid service providers require more mentorship and advanced training in terms of utilizing research products for improved service delivery. In addition to further training programs focused on developing research skills, legal practitioners can benefit from the mentorship program offered by the Supreme Court in addition to other support initiatives from public and civil society organizations.

During the moot court session, LAND Project staff observed that defense lawyer participants mainly used or cited domestic legal provisions. However, none of them used international conventions ratified by Rwanda, relevant case precedents, or scholarly research containing pertinent evidence to the cases they prepared.

In due fairness, participants were given limited time to carry out such in depth research, so that we cannot say for certain that they would not have drawn on such resources in preparing an actual case. Nevertheless, these observations taken together with the scorecard results points to potential deficiencies among defense lawyers and legal aid providers in conducting thorough research to construct well-motivated cases and delivery satisfactory service to their clients.

2.3 Coordination and Collaboration

The assessment looked also at aspects related to coordination and collaboration with researchers in the domain of law, the practice of sharing legal research information with other legal practitioners involved in the case, as well as sharing case submissions. The frequency with which respondents consult with researchers generated a mean score of 3.7, as did the practice of sharing new information (such as legal texts, research products, and relevant cases) with other legal practitioners involved in the case (see Figure 11).

Standard deviations for both sets of responses were 1.0 (see Figure 12), indicating a low degree of variance in the responses to these questions. Hence, there is evidence that respondents are consulting researchers and sharing information gathered through

legal research to a moderate extent, thereby enabling their colleagues to update their knowledge and understanding of different legal cases. The practice of sharing legal conclusions received a mean score of 3.6 and a standard deviation of 1.4, suggesting that among the respondents, most engage in providing research materials to their colleagues.

The overall scores on this aspect of coordination and collaboration are slightly higher than scores associated with other assessed aspects of research capacity, which is not surprising. Trainers and LAND Project staff observed during the moot court sessions that participants also actively shared materials with their fellow participants, providing further evidence of collaboration among legal practitioners. It is important to continue nurturing a the culture of information sharing and collaboration with researchers and information sharing since widespread sharing of knowledge can ultimately lead to strengthening the quality of defense cases.

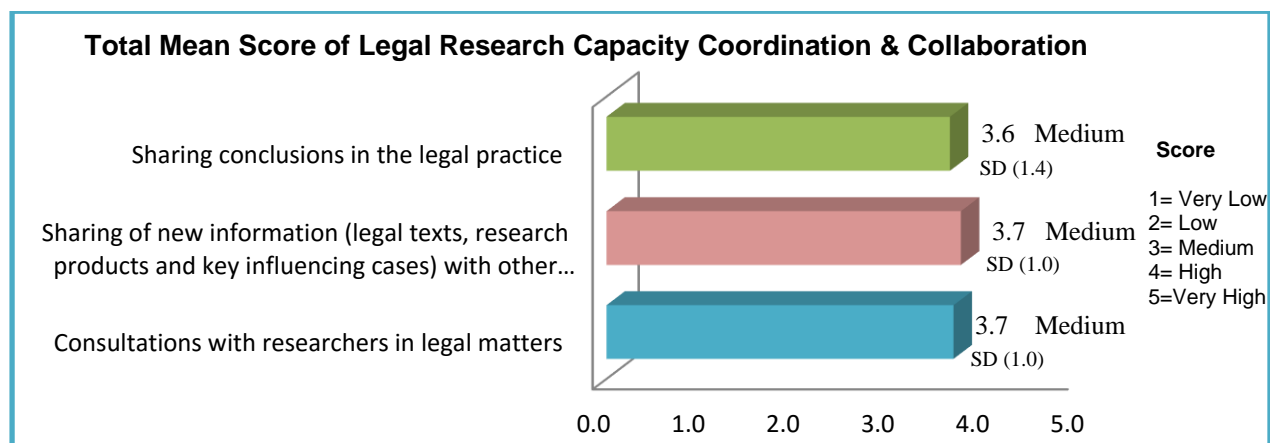


Figure 11: Legal Research Capacity: Coordination and Collaboration

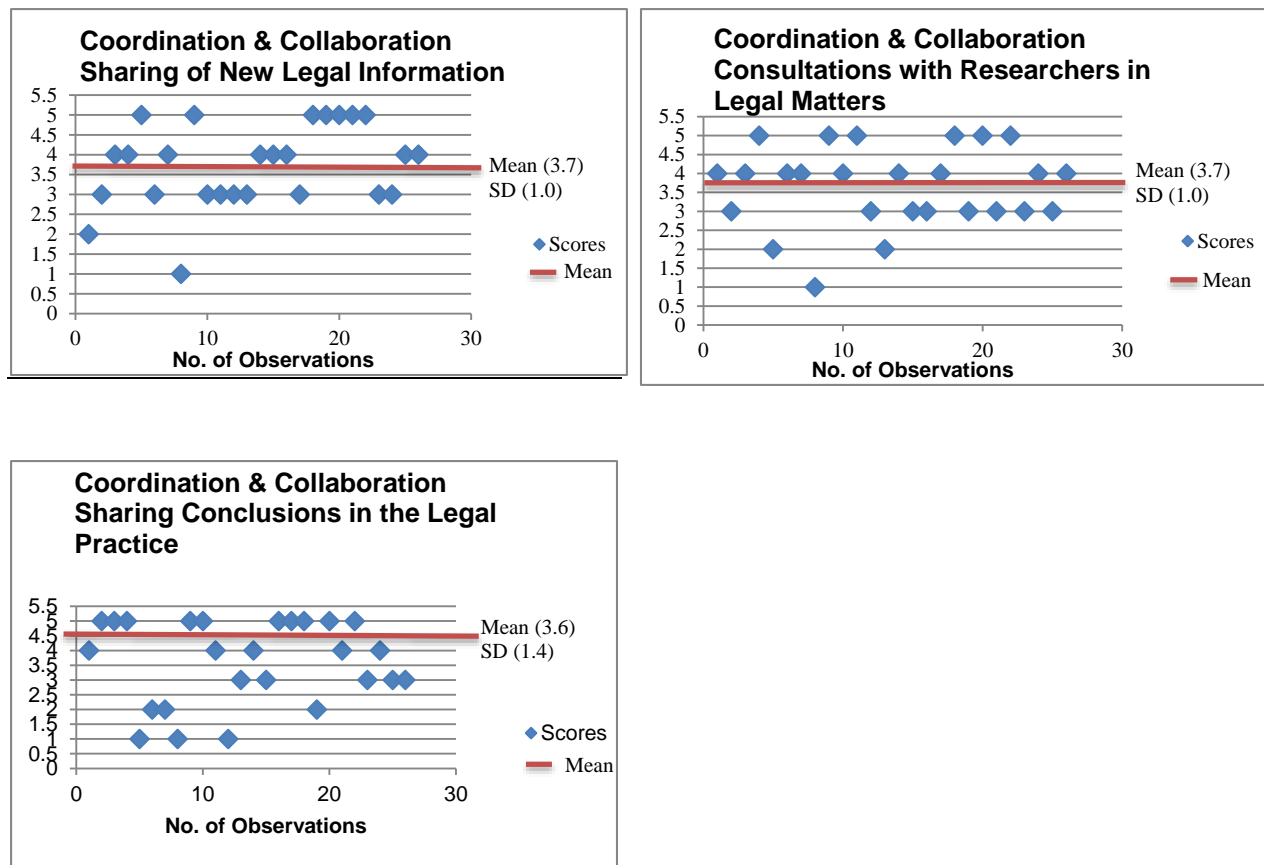


Figure 12: Legal Research Capacity: Coordination, Illustrations of Response Variations

3.0 CONCLUSIONS AND RECOMMENDATIONS

The aim of this assessment was to gain information on the legal research capacities among legal aid providers and defense lawyers by investigating the extent to which defense lawyers and other legal aid providers carry out research to build a legal case and how they perform that research. This assessment relied primarily on information collected using a scorecard administered to trainees, though this was complemented by trainer and LAND Project staff observations on participants' legal research skills.

Analysis of the scorecard together with these observations enabled the project to shed some preliminary light on the legal research capacities of legal aid providers and defense lawyers. However, the assessment was based on a questionnaire administered to only 26 legal aid providers and defense lawyers in a training classroom setting. More robust conclusions about the legal research capacities of legal aid providers in Rwanda would require sampling a much larger population of this target group in a manner that would minimize the risk of selection bias.

Results of the assessment show generally that most respondents refer to research findings or materials to motivate their cases, but only on a limited basis. The prominent sources of these legal research materials are obtained mostly from the courts and electronic sources (internet). The assessment shows that most of the respondents regard carrying out research and consulting with other lawyers as valuable practices in motivating their cases.

During the moot court sessions, it was observed that the defense lawyers rely more on domestic legislation and less on international conventions ratified by Rwanda. While limited consultation of international instruments could indicate a lack of training in researching such instruments or familiarity with them, the narrower focus on domestic legislation could also have been due to time constraints imposed by the training program.

Finally, the assessment suggests that defense lawyers and legal aid providers collaborate with one another when it comes to conducting legal research and sharing information with their colleagues.

The moot court exercise undertaken during the training course provided defense lawyers and other legal aid providers with an important opportunity to practice legal research skills and receive coaching from experienced trainers in order to improve their capacity to deliver quality services to their clients. The project foresees that further trainings utilizing moot court exercises would both broaden and deepen this skill set.

In the future, however, it would make sense to precede the moot court with a brief training on conducting legal research and also to extend the timeframe for participants to prepare their cases to allow them greater opportunity to engage in such research. Exposure visits to courts and lawyers experienced in doing thorough legal research may also be beneficial. These measures are likely to enhance participant research skills, resulting in better formulation of cases during the course of the training and beyond.

ANNEX: SCORE CARD

The purpose of this scorecard is to assess the legal research capacities of defense lawyers in terms of accessibility, use and collaboration with other stakeholders. The information stemming from this survey will support future plans in research and advocacy capacity building. If you desire to add any further comment about any of your ratings, kindly fill-in the information at the end, referencing the number of the evaluated criteria. We thank you for your participation in this effort.

1. Name of Organization: _____

2. Please indicate whether the organization is a:

___ Civil Society Organization/Non-governmental Organization

___ University or Research Institution

___ Government of Rwanda Ministry or Implementing Agency

___ Other: _____

3. Date Scorecard Completed (mm/dd/yy): _____

For each criterion below, please rate on a scale of 1 to 5 (1=low; 5=high) OR Yes or No	
Criteria	Score (circle the appropriate number)
1. Awareness & Accessibility	
1.1 Citation of research materials or reference in motivating the case	1 2 3 4 5
1.2 Access to legal provisions (laws and other regulations) in case formulation	
a. Courts Institutions	1 2 3 4 5
b. Electronic Sources	1 2 3 4 5
c. Media Sources (newsletters, radio, TV, etc.)	1 2 3 4 5
d. Legal Aid Clinics	1 2 3 4 5
e. Civil Society Organizations	1 2 3 4 5
f. Public Libraries	1 2 3 4 5
g. Research Institutions (Faculties of Laws, ILPD, etc).	1 2 3 4 5
1.3 Access to court decisions when motivating a case	
a. Courts Institutions	1 2 3 4 5
b. Electronic Sources	1 2 3 4 5
c. Media Sources (newsletters, radio, TV, etc.)	1 2 3 4 5
d. Legal Aid Clinics	1 2 3 4 5

	e. Civil Society Organizations	1 2 3 4 5
	f. Public Libraries	1 2 3 4 5
	g. Research Institutions (Faculties of Laws, ILPD, etc).	1 2 3 4 5
	1.4 Access to research products	
	a. Courts Institutions	1 2 3 4 5
	b. Electronic Sources	1 2 3 4 5
	c. Media Sources (newsletters, radio, TV, etc.)	1 2 3 4 5
	d. Legal Aid Clinics	1 2 3 4 5
	e. Civil Society Organizations	1 2 3 4 5
	f. Public Libraries	1 2 3 4 5
	g. Research Institutions (Faculties of Laws, ILPD, etc).	1 2 3 4 5
	2. Practice & Use	
	2.1 Experience in the field of law (number of years)	
	2.2 Publication in the media, peer-reviewed journals, books, etc.	Yes/No (circle one)
	2.3 Relevancy of research to influence legal formulation	1 2 3 4 5
	2.4 Consultation of legal research products to build a case	1 2 3 4 5
	2.5 Use of jurisprudence cases to motivate a case	1 2 3 4 5
	3. Coordination & Collaboration	
	3.1 Consultations with researchers in legal matters	1 2 3 4 5
	3.2 Sharing of new information (legal texts, research products and key influencing cases) with other players in the case	1 2 3 4 5
	3.3 Sharing conclusions in the legal practice	1 2 3 4 5

Please add any notes you wish to add in reference to your responses above. Please reference the number of the evaluated criteria: